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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/527,680	03/17/2000	Rolf Jess Jorgensen	56672.000003	2845

1444 7590 12/08/2003

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EXAMINER

LEVY, NEIL S

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 12/08/2003

25

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER NUMBER
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25

DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 9/11/03

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1, 2, 5-7, 10-14, 18-20, 25-31 & 35 is/are pending in the application.

Of the above, claim(s) 12, 5-7, 10-13, 20, 26 & 27 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 14, 18, 19, 25, 28-31 and 35 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1, 2, 5-7, 10-14, 18-20, 25-31 & 35 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of Reference Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

BEST AVAILABLE COPY

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Applicant should include reference to priority at page 1, after title.

Claims 1, 2, 5-7, 10-13, 20, 26 and 27 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Invention and species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 11.

Claims 14, 18, 19, 25, 28-31 and 35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Encapsulation is neither described or exemplified-one is free to utilize any form, as it is presented (p.7, lines 20-27), since the claimed embodiment is not exemplified or in any way identified as to its constituents, we do not know if the recited (lines 25-27) ingredients are the calcium three membrane(line 30). The only concern is they by pass the rumen.

Claims 14, 18, 19, 25, 28, 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Huzinec et al 5912030.

The rejection of record is maintained, because applicants encapsulation is not identified as any different from Huzinec, since the only ingredients as encapsulants of applicants are those of Huzinec (col.5, lines 47-62) and the claimed "Membrane" has no size-thickness limitations.

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Claims 14, 15, 18, 25, 28-30 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Ashmead et al 3184381.

The rejection of record is maintained, another compound which reduces Ca absorption by binding Na tripolyphosphate (col.2, lines 43, 44).

Ashmead encapsulates the actives; applicant although stating encapsulation, provides only one statement, no enablement, and no utilization, of any encapsulated forms of actives. Thus, the protected by mixing compositions of Ashmead are at least encapsulated in the preparation, : in contrast to applicants examples.

Applicant's arguments filed 9/11/03 have been fully considered but they are not persuasive. Applicants arguments were addressed above-we find only Zinc oxide and Zeolite tested, and no encapsulated forms, but the compositions are still seen as met by the prior art, since applicants' use of "encapsulation" is not explicitly presented, nor, given example 4, does it seem to be critical.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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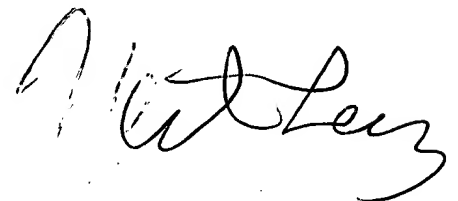
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is 308-2412. The examiner can normally be reached on Tuesday- Friday 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 308-2927. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1235.

Levy/tgd
November 24, 2003

A handwritten signature in black ink, appearing to read "Neil S. Levy". The signature is fluid and cursive, with the last name "Levy" being more prominent.

NEIL S. LEVY
PRIMARY EXAMINER